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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,732	05/22/2001	Ting Dean Cheng	IBMC-0020	8759
23550	7590	06/22/2004	EXAMINER	
HOFFMAN WARNICK & D'ALESSANDRO, LLC			ISSING, GREGORY C	
3 E-COMM SQUARE			ART UNIT	
ALBANY, NY 12207			PAPER NUMBER	
			3662	
DATE MAILED: 06/22/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/862,732

Applicant(s)

CHENG, TING DEAN

Examiner

Gregory C. Issing

Art Unit

3662

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

Gregory C. Issing

Primary Examiner

Art Unit: 3662 - 703-306 Y156

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's remarks are not convincing. Alcorn et al do teach encoding with encryption the GPS longitude, latitude, and time and a PIN number for communication to the server (col. 7, lines 1-7); there is nothing in the claim language (identification generator) that distinguishes such from the prior art. additionally, there is a user input public key and a device generated private key. The mere encoding of the position and time, in fact meets the scope of the claimed identification generator. Applicant's remarks with respect to Fan are also not convincing since the modulator which is part of any transmission of data meets the scope of "an identification generator" since the transmitted message is generated contrary to the applicant's belief. Additionally, the language "to ensure security, such a code word can be formed using an encryption process . . . to identify the first party." The authentication keys additionally provide identity of the devices. Also see col. 4, lines 60-67. The applicant's allegation that Nerlikar does not suggest an identification generator is not persuasive and is contrary to the teachings of Nerlikar, see col. 4, par. 1 and 4 and col. 6, lines 14-17. These noted passages are merely exemplary of the teachings refuting the applicant's allegations. Further, with respect to any of the prior art references, wireless communication/exchange of messages including position necessarily is associated with some form of identification in order to associate the position with a user.